

6.1 Records Retention Generally

The Library of Virginia under the [Virginia Public Records Act](#) provides numerous schedules to assist state and local government agencies in maintaining and disposing of records in compliance with applicable legal requirements. The Library also has [Regulations](#) prescribing certain standards for public records, including requirements for secure disposal of records containing social security numbers. The [Library of Virginia Records Retention Schedule](#) GS-01 for Local Election Records has been updated effective May 26, 2010.¹ The Retention Schedule for the State Board of Elections is available on SharePoint. To the extent any schedule conflicts with federal or state election law requirements; the statutory requirements must be followed.

6.2 Retention Schedules

"Public records" under the Virginia Public Records Act and Virginia Freedom of Information Act potentially includes all election or job-related records, including e-mails, in the possession of the official or office. The Virginia Public Records Act directs the Library of Virginia to oversee retention and disposition of public records created by or used by state and local governments. For more information on the Library's public records services, see the [Library's website](#).

With this in mind, attention should be given to the retention schedules of records (as defined in the [Library of Virginia retention and disposition schedules](#)). After the retention period has passed, follow the appropriate archiving or destruction procedures. FOIA cannot require production of a record that no longer exists, or is no longer possessed.

If records (other than those which require an original signature) are converted to another format (microfilm or electronic), the original records can be destroyed after the new images have been verified. The information in the new format then becomes the copy of record (also known as the record or master copy) and must be retained for the length of time specified on the retention schedule.

6.2.1 Disposition

The nature and format of the information in the records determine the destruction method. When records contain personal, private or confidential information (such as voter records), it is critical that they are destroyed in a way that will prevent unauthorized access to the records or information.² Records containing social security numbers

¹ The 2010 update to GS-01 makes significant revisions to reflect the 2007 implementation of VERIS; this schedule was last revised in 2008 as to campaign finance records only.

² [Va. Code § 2.2-3801](#) defines "personal information" for government record keeping purposes generally.

generally must be destroyed within six months after the expiration of the applicable retention period.³ Secure destruction meeting standards detailed in [Library of Virginia Regulations](#) must be utilized.

- Electronic Data: Information in electronic media must be totally obliterated and rendered unusable-- not merely deleted. Special software programs are available for this purpose. CDs and DVDs must be physically destroyed to render them inaccessible. Hard drives containing any data must be removed and destroyed separately before discarding any computers.
- Recycling is an acceptable method of destruction for records with no special disposition requirements. Consult locality for information on recycling programs.
- Shredding also must comply with the [Library of Virginia regulation standards](#). Shredding on site must use a mechanical cross cut device producing shreds no larger than 3/8 inch. Vendors must be bonded.
- Microfilm: Certain types of microfilm and microfiche can be shredded. Contact the Library of Virginia for assistance.

Retention schedules and completed [Certificate of Records Disposal \(RM-3\)](#) forms serve as evidence of proper disposal if records are later requested under the Virginia Freedom of Information Act or subpoenaed as evidence. To destroy public records, the following steps document compliance with legal requirements:

- Refer to the Library of Virginia approved [Records Retention and Disposition Schedule](#);
- Ensure that the retention period stated on the schedule has passed;
- Ensure that all known audits, investigations or litigation are resolved;
- Complete a [Certificate of Records Disposal \(Form RM-3, 7/2008\)](#);
- Obtain signatures of the Records Officer and person requesting disposition of records. The Records Officer must approve all dispositions. (It is suggested that a specific member of the Registrar's staff work with the locality Records Officer when destroying records). These signatures constitute approval to destroy.
- Identify the person who can verify that the records were destroyed;
- Send original RM-3 form with signatures to the Library of Virginia. (This is usually done by the locality's Records Officer) Keep a copy of the form for the office files; retain according to form GS-19 for localities.

Best practice: maintain a central "List of Files" in the office that describes the contents of various filing cabinets, etc. where records are stored for convenience in locating records. The Library of Virginia holds training seminars on records management throughout the state, and it is recommended that at least one member of the staff attend such training. Information on records retention and management is also available at the [Library of Virginia website](#).

³ [Va. Code § 42.1-86.1](#). The general requirements of the Public Records Acts are subject to a determination of overriding need by the appropriate agency head. Va. Code § 42.1-87(E).

6.3 Application Card Files

Registrars must keep completed voter registration application forms in an easily accessible container with a lock or in a locked room.

6.3.1 Computer and File Security

Registrars must keep all submitted voter registration application forms in an easily accessible container with a lock or in a locked room.

Voting records contain much private information that is protected by law. Furthermore, the administration of elections is vital to good government. The privacy of these records and the proper administration of elections can be destroyed by malicious individuals or accidental disclosure of information. In order to minimize the potential for accidental or malicious disclosure of data, local election officials are encouraged to follow VITA data security standards which can be accessed via the following links.

[IT Data Protection Guideline \(SEC507-00\):](#)

[IT Logical Access Control Guideline \(SEC509-00\):](#)

Under no circumstances should a local election official email or fax records containing social security numbers or parts thereof to the State Board of Elections or anyone other than the subject of the record at their request with proper identification. Remember, most email and faxes are not secure methods of transmitting information.

Completed application cards are not open to public inspection under § [24.2-444](#). If a registered voter requests a copy of his own application, the registrar must provide it. §[2.2-3806](#). See Table below. Section §[24.2-444](#) states that registration records are maintained by the general registrar. Only lists of registered voters and persons denied registration issued as reports from VERIS containing statutorily authorized information are open to public inspection. Section §[24.2-444](#) specifically withholds from public inspection and/or copying any other voter registration records with the limited exception of certain records relating to list maintenance activities.⁴ Section § [24.2-444](#) does not require the general registrar to provide copies of the authorized lists to the public. Therefore, the registrar may decline to provide copies of voter registration lists required only to be available for public inspection.⁵ Copies of registered voter lists may be available from the State Board of Elections to purchasers authorized in § [24.2-405](#). See Records Access Index at the end of this chapter.

⁴ These records are described in § 24.2-444 (B). General registrars must retain and make these records available for public inspection and copying for at least two years.

⁵ When access to a record is limited to certain individuals, a provision for inspection does not authorize copying. Op. Va. Att’y Gen. 2008-041 (interpreting § 16.1-305).

Table: Summary of Records Access for Individuals and Criminal Investigations

Item	Accused and Accused's Counsel	Commonwealth's attorney	Third party (e.g., lawyer for another person)
Voter registration application	In full.	In full. 24.2-1019.	Not at all. Inspect public list only. 24.2-444.
List of those who voted	Extract limited to accused or other representative (e.g., certification as to content)	No restriction. 24.2-1019.	Not at all. Only from SBE under 24.2-406.
Poll book indicating person voted	Extract limited to accused or other representative (e.g., certification as to content)	No restriction. 24.2-1019.	Not at all. Only from SBE under 24.2-406.

6.3.2 Alphabetical File for Current Registrants

This file contains the application cards of current registrants, both active and inactive. Documents are filed in alphabetical order by last name. The registrar maintains this file indefinitely so long as the individual is registered in the locality.

6.3.3 Denials, Changes, and Cancellations

The registrar must enter information from all denied applications, cancellations, changes and re-registrations into VERIS. The registrar checks the data against the E & V report then files the card in the appropriate file and then retains the record for period required in [§ 24.2-114\(8\)](#).⁶

VERIS enables registrars to search these records and provide federally mandated statistical reports. Registrars do not need to enter separate statistics for denials and duplicates on a daily, weekly, or monthly basis.

6.3.4 Suspense File

The suspense file organizes all voter application cards from time of receipt until the registrar verifies applications that have been entered into VERIS on the Errors and Validation Report (E&V) report. Applications are removed and re-filed after the accuracy of the VERIS entries is verified. The file is divided into seven sections:

⁶ Some GRs file changes such as name and address by date, rather than by the affected voter; filing by affected voter assures compliance with the full retention period prescribed in [§ 24.2-114\(8\)](#).

- Adds
- Deletes
- Denied
- Pending
- Changes
- Confirmation Notice Requested
- VERIS Applications Sent to Other Localities

Documents are to be filed in alphabetical order within each section.

All registration cards received and awaiting action are filed in the pending file. The registrar enters the card in VERIS, then places it in the appropriate add, delete, denied, or change file until it can be verified in the E & V report.

When a registrar receives a signed but incomplete application from a voter registered in another locality indicating a change of address, the registrar must request the voter's original alpha card from the voter's previous locality. The sending locality:

- (1) photocopies (or scans) the alpha card,
- (2) notates on the copy the date and name of the gaining locality "transferred out to (Gaining Locality)"; and
- (3) files the notated copy in the "Applications Sent to Other Localities" suspense file.

When the sending locality has verified that the transfer out record appears on the E & V report, the sending locality may destroy its reference copy of the alpha card.⁷

6.4 Errors and Validation Report (E&V) Reports

The Errors and Validation Report (E&V) report serves as an audit for all updated transactions entered into VERIS. A record will print on the report for all updated registrations. The report provides a record for each transaction, whether accepted, canceled, or rejected. Each record will contain data as it was entered into the system. To ensure an accurate database, the registrar must compare the source of the data to the report and correct any errors. This process ensures the accuracy and integrity of all data and other reports produced by VERIS.

6.5 Reports for Public Inspection

The statutes governing access to voter registration and election records are complex and scattered. An index at the end of this chapter summarizes these provisions.

Protecting voter privacy and preventing identity theft require strict compliance with statutory restrictions. The United States Court of Appeals for the Fourth Circuit has ruled

⁷ Reference copies are not public records. [§ 42.1-77](#).

that registering to vote cannot be conditioned on providing a social security number shared with undisclosed third parties. ([Greidinger v. Davis.](#)) The Code of Virginia strictly prohibits under felony penalty any unauthorized disclosure of all or any part of the social security number on any voter registration or election-related document. [§§ 24.2-407.1, 24.2-1002.01](#). Further, no list or record provided for public inspection may contain the day and month of birth of an individual. [§§ 24.2-404, 24.2-444, 24.2-706](#).

2007 legislation significantly enhanced protection for voter registration records by limiting records available for inspection in the general registrar's office to lists of registered voters and persons denied registration. Certain records concerning list maintenance also must be available for public inspection and copying. The 2007 legislation defines voter registration record broadly:

"Registration records" means all official records concerning the registration of qualified voters and shall include all records, lists, applications, and files, whether maintained in books, on cards, on automated data bases, or by any other legally permitted record-keeping method. ([§ 24.2-101](#))


In addition, the law requires upon request that the residence addresses of certain voters be excluded from voter lists. These voters must apply for protected status and provide a United States post office box address within Virginia for use on voter lists. The statutory categories of protected voters include law enforcement officers and others described in [§ 24.2-418](#) or a federal law requiring similar protection.

Section [24.2-444](#)(C) details information that must be excluded from the public lists available in general registrar's offices:

C. No list provided by the State Board under subsection A nor any record made available for public inspection under subsection B shall contain any of the following information: (i) an individual's social security number, or any part thereof; (ii) the residence address of an individual who has furnished a post office box address in lieu of his residence address as authorized by [§ 24.2-418](#); (iii) the declination by an individual to register to vote and related records; or (iv) the identity of a voter registration agency through which a particular voter is registered. No voter registration records other than the lists provided by the State Board under subsection A and the records made available under subsection B shall be open to public inspection. ([§ 24.2-444](#))

6.5.1 Precinct Record Listing

The "Precinct Record Listing" is produced for public inspection purposes and therefore contains no social security numbers or day/month of birth information. It lists all registered voters in alphabetical order within each precinct.

-  The Code of Virginia requires that the registered voter lists produced by VERIS be open simply to *public inspection* (but does not require copying). FOIA is limited to citizens of the Commonwealth and certain news media organizations

but is not a basis for restricting access to voter lists and records that Title 24.2 and federal law make available for public inspection. [§ 2.2-3703](#) (Title 24.2 controls in event of conflict); [U.S. Const. Art. VI, para. 2](#).

6.5.2 Precinct Record Updates

The “Precinct Record Updates” includes, in alphabetical order by precinct, the complete record for each registrant whose record was added, changed, or deleted during the time period of the update. A message indicating the date and type of transaction will appear with each record.

VERIS now manages the process for updating registrant files and generating lists of registered voters. The registrar is responsible for destroying obsolete lists and supplements upon creating a new complete list. [§ 24.2-444](#).

SBE may provide the Precinct Record Updates electronically through VERIS in whole or in part in response to a request for public inspection. A general registrar may but is not required to provide an electronic copy of a list required to be available for in office public inspection.

6.5.3 Denied Registrations Report

A list of all persons denied registration must be available for public inspection in the office of the general registrar. [§ 24.2-444](#). This report can be scheduled to run at a specific time through VERIS or can be requested ad hoc to supply information for a specified time period. Section [24.2-444](#) requires only that the list contain the information corresponding to the registered voter lists (name, address, birth year, gender, applicable election districts). FOIA allows additional personal information to be disclosed within the discretion of the record holder if not otherwise prohibited by law. [§ 2.2- 3705.1](#). For example, the reason for denying an application may be confidential if based on criminal records. [§ 19.2-389](#). The Secretary has exercised discretion to decline to provide telephone numbers for concern of possible harassment.

6.6 Monthly Transactions Summary

This one-page summary reports all transactions entered in VERIS by your locality during the month covered. It is a valuable planning tool and will provide concrete proof of workload as justification for your budget requests.

File this document in a standard file folder, labeled with the report’s title in chronological order with the latest report on top. SBE recommends retaining these reports for four years plus the current year. See GS-01, Series 000514.

6.7 Protection of Social Security Numbers

Election law authorizes collection of social security numbers for certain purposes, including voter registration and provisional voting, but strictly prohibits release of social security number information without specific authorization. Unauthorized release of a voter or registration applicant social security number or a part thereof is a felony. [§ 24.2-1002.1](#). If the SSN (or part) appears on a record or list open for inspection or copying, the number must be covered so it cannot be read, and the record copied before the copy can be made available to someone other than the voter or applicant, their authorized representative or a Commonwealth's Attorney investigating an election offense. See Table in Section 6.3.1 above. Voter registration applications containing the SSN cannot be made available except to the applicant or his authorized representative under [§ 2.2-3806](#)⁸ or to a Commonwealth's Attorney under [§ 24.2-1016](#). In any other circumstance, a court order may be necessary and local government legal counsel should be consulted. Effective 7.1.2010, state and local governments are prohibited from collecting social security numbers without statutory authorization. ([§ 2.2-3808](#))

6.7.1 Persons Authorized to Receive/Use Lists from SBE

Sections §§[24.2-405](#) through [24.2-407.1](#) require SBE to furnish “at a reasonable price” lists of registered voters and persons voting in elections to certain authorized individuals and organizations for strictly limited purposes. Section 24.2-406 limits lists with voter history to candidates, elected incumbents, political party chairs and another state's Chief Election Officer. These statutes specify that the lists cannot be provided to other persons or for other purposes.

These lists available for purchase directly from SBE are to be distinguished from the localized public lists that any member of the public may inspect in the office of the general registrar under [§ 24.2-444](#). These lists include full birth dates, whereas the localized public lists available for public inspection in the general registrar's office cannot include birth day and month. These specific election law permissions and limitations set forth in §§ [24.2-405](#) through [24.2-407](#) control access to these voter registration records and they are not available under the Virginia Freedom of Information Act. Rather, these lists containing full birth dates may only be obtained from SBE by authorized persons under the procedures detailed in §§ [24.2-405](#) through [24.2-407](#).

6.8 VFOIA Implications

To the extent election law is silent, electronic records, including e-mails, are covered by VFOIA. (See Chapter 26.) The Virginia Freedom of Information Advisory Council has

⁸ The law does not define what constitutes “proper identification” for an authorized representative to receive personal information from government records. The general registrar must make a determination based on the facts of each request. Greater caution is indicated when dealing with persons over the telephone. The Commonwealth's attorney or local government counsel may be able to provide assistance with verifying authority and secure transmission. See also [Virginia Notary Handbook](#) (pdf pp. 5 and 13) (satisfactory evidence of identity for notary purposes).

published a useful guide called [*E-Mail: Use, Access & Retention*](#). Another issue that arises from use of e-mail is the blurring of the line between “correspondence” and “meetings.” The [Council](#)’s guide to *E-mail and Meetings under the Virginia Freedom of Information Act* help to sort out this issue.

Records Access, Copying and Retention Index (generally may not contain SSN, birth day and month, protected voter residence address; Code exceptions for law enforcement and voter or verified representative)

	Record	Inspect	Copy	SBE	Retain
1.	Voter registration application	Commonwealth attorney, applicant or applicant's authorized representative	Commonwealth attorney, applicant or applicant's authorized representative	No	4 years after cancelled
2.	List of registered voters	General public only in form of precinct record listing.	No. May provide copy for cost.	state chief voting officials, courts for jury selection, candidates, party committees, incumbents, registered PACs, qualified nonprofits	Until replaced by new list.
3.	Precinct Record Listing	General public	No. May provide copy for cost.	See above.	Until replaced by new list.
4.	Denied registration list	General public without reason	No. May provide copy for cost.		Until replaced by new list. Denied applications retained 4 yrs. but are not available. See above.
5.	Cancelled list (felony, adjudication, confirmed move, declared noncitizen)	General public without reason	For cost.		4 years
6.	Confirmation list and responses	Public	Public for cost		2 years
7.	List of Those Who Voted	No	No	Candidates, elected incumbents, party chairs for political purposes, another state Chief Election officer	Not required. SBE maintains.
8.	Pollbooks	Same as above	Same as above	Same as above	2 years.
9.	Absentee ballot applications	Virginia registered voter (unless also for registration)	No effective 7.1.2010.	No	2 years (or as voter registration)
10.	Absentee applicant list	Virginia registered voter	Virginia registered voter. May charge reasonable cost.	Electronically to requesting party or candidate.	2 years
11.	Final absentee applicant list	Public	No. May provide for cost.	No	2 years
12.	Campaign Finance reports	Public	Yes	Yes	1 year after final report or through next general

					election for pertinent office.
13.	Petitions	Public except any SSN or part must be redacted.	No. May provide for cost.	If filed with SBE.	5 years or through the next general election for that office, whichever is later
14.	Candidate statement of economic interest form	Public except any SSN or part must be redacted	For cost.	If filed with SBE.	5 years or through the next general election for that office, whichever is later.
15.	List of officers of election with party designations.	Public except personal information may be withheld.	EB Secretary must provide to requesting candidates and parties for cost.	If filed with SBE or available in VERIS.	Until superseded.

Supporting citations:

1. Va. Code 2.2-3806, 24.2-101, 24.2-114(8), 24.2-444, 24.2-1019, application form
2. Va. Code 24.2-444
3. Va. Code 24.2-444
4. Va. Code 24.2-444
5. Va. Code 24.2-114(8), 24.2-444(B), 42 USC 1973gg-6
6. Va. Code 24.2-114(8), 24.2-444(B), 42 USC 1973gg-6
7. Va. Code 24.2-101, 24.2-406, 24.2-407, 24.2-444. See also 2.2-3703(B), 2.2-3705.1(10) and 2.2-3801
8. Va. Code 24.2-114(11), 24.2-668 and above.
9. Va. Code 24.2-706, 42 USC 1974
10. Va. Code 24.2-706, 42 USC 1974
11. Va. Code 24.2-710
12. Va. Code 24.2-946.2
13. Va. Code 24.2-107. GS-01, Series 000509
14. Va. Code 2.2-3114, 2.2-3115. GS-01, Series 000509
15. Va. Code 24.2-115.